

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THE HONORABLE DALE S. FISCHER, JUDGE PRESIDING

JANET GARCIA, et al.,)
)
 Plaintiffs,)
)
 vs.) No. CV 19-6182-DSF-PLA
)
 CITY OF LOS ANGELES, et al.,)
)
 Defendants.)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Wednesday, September 23, 2020, 1:30 P.M.

Plaintiffs' Motion Re Civil Contempt and Sanctions

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1 LOS ANGELES, CA., WEDNESDAY, SEPTEMBER 23, 2020, 1:30 P.M.

2 -oOo-

3 THE COURT: All right. I think it's 1:30.

4 Ms. Badirian, would you call the case please.

5 THE CLERK: Calling CV 19-6182, Janet Garcia, et
6 al., vs. City of Los Angeles, et al.

7 Counsel, please state your appearances.

8 THE COURT: Let's start with plaintiffs' counsel.

9 MS. MYERS: Shayla Myers on behalf of the
10 plaintiffs, Your Honor.

11 MS. SWEETSER: And Catherine Sweetser for
12 plaintiffs.

13 MR. ONUGER: Michael Onufer for plaintiffs.

14 THE COURT: All right. Well, I'm not recognizing
15 those names so other than Ms. Myers, the next person who
16 made an appearance, please spell your name.

17 MS. SWEETSER: I'm sorry. It's Sweetser,
18 S-w-e-e-t-s-e-r. I'm with Schonbrum Seplow Harris &
19 Hoffman.

20 THE COURT: And the other person who appeared?

21 MR. ONUGER: Yes, Your Honor. Michael Onufer,
22 O-n-u-f-e-r, from Kirkland & Ellis.

23 THE COURT: All right. And for the City?

24 MS. URSEA: Good afternoon, Your Honor.
25 Patricia Ursea for the City.

1 MR. LEBRON: Good afternoon, Your Honor.

2 Felix Lebron for the City.

3 MR. DERMER: Good afternoon, Your Honor.

4 Gabriel Dermer also for the City.

5 THE COURT: All right. Thank you.

6 Everyone please put yourself on mute unless you're
7 speaking; and then if you have something to say, remember to
8 take yourselves off mute.

9 I know there was someone else who wanted to call
10 in.

11 If there is anyone else on the line, you are
12 ordered not to broadcast or record this proceeding in any
13 way. No one is permitted to do that other than my official
14 court reporter Ms. Cuneo.

15 I mostly brought you in to tell you that I really
16 didn't need to have this filed. You should have been able
17 to work this out on your own. So keep that in mind in the
18 future.

19 Let me start off with the City, and your papers
20 were very thorough. In fact, they told me a lot of things
21 that I didn't really need to know.

22 So let me focus first just on the spot cleanings
23 that were conducted in April and July and tell me about
24 those -- the challenged paper notices.

25 Were those used in those cleanings?

1 MS. URSEA: This is Patricia Ursea, Your Honor.

2 No. Those paper notices were not used in spot
3 cleanings. Those cleanings are sort of *ad hoc* as the City
4 is made aware that something is either blocking access or is
5 causing a potential health hazard and so notices are not
6 given in those types of situations.

7 THE COURT: All right. Thank you.

8 So let's step back then to the date that I issued
9 my order and tell me what steps the City took immediately on
10 issuance of that federal order to comply, especially with
11 the third part of it regarding the signs or notices.

12 MS. URSEA: Well, the main thing that's the
13 city -- the main step the City took was to inform the
14 Sanitation employees that they were not to collect bulky
15 items.

16 And if they had to remove them for health, because
17 they were blocking something, ingress or egress or ADA, then
18 they would either have to be stored and, if they could not
19 be stored, then they would just have to be moved to another
20 location or somewhere off to the side.

21 And that the only time that they could be
22 discarded is if they posed a documented health and safety
23 hazard. But at that time cleanings were not --
24 comprehensive cleanings were not occurring at all and so
25 notices were not being used.

1 And at the same time the Sanitation employees
2 were -- their resources were diverted to something
3 completely different which is not cleanings. They were
4 focused on trying to prevent the spread of Covid among the
5 homeless individuals.

6 And so rather than doing the cleanings, they were
7 deploying and servicing various handwashing stations and
8 portable toilets and that kind of thing.

9 So that was -- and there was one sign that was
10 amended after the order issued, and it was amended in a very
11 technical way which was the bulky-item sign which is
12 Exhibit A to Mr. Wong's declaration.

13 And so it was amended in a very technical way to
14 remove references to LAMC 5611 and to the -- what LAMC 5611,
15 the bulky-item provision actually says which is the removal
16 and destruction of bulky items.

17 So that was taken off but then there was no
18 cleanups and there was no focus on those notice -- those
19 paper notices until July.

20 But there were at the same time while there was
21 this diversion of operations to adjust to COVID and there
22 was the cessation of the bulky-items provision. Those
23 operations ceased.

24 At the same time there were these areas around the
25 bridge homes that the City has been developing. Those areas

1 are cleaned every week and there's other services that are
2 provided as well so those areas required permanent signage
3 to notify people of the time of the cleanings.

4 So after the order issued, there were 1,080 signs,
5 permanent signs, that were put up in these locations and all
6 of those signs were compliance.

7 The order was followed as to those signs, and I
8 think that the paper signs was -- missed all of it, was not
9 a focus and that's -- they ended up getting posted once
10 cleanings resumed in late July.

11 THE COURT: So going back to my original question,
12 you said you advised or the City advised Sanitation. What
13 does that mean? That doesn't tell me anything.

14 MS. URSEA: The Sanitation -- the ECIs, the
15 Environmental Compliance Investigators -- or inspectors,
16 rather, and the Sanitation workers that would do the spot
17 cleanings were instructed not to remove bulky items if they
18 could not be stored.

19 THE COURT: Okay. Stop. Stop. Stop. Let me go
20 back. I want a very specific answer to a very specific
21 question. You were the lawyer; right?

22 What did you do when you got back to your office?
23 Who did you or some other City lawyer tell to do what?

24 MS. URSEA: We -- the -- the injunction order was
25 distributed to Sanitation's attorneys and --

1 THE COURT: How? How was it distributed?

2 MS. URSEA: It was emailed.

3 THE COURT: Okay. You said to the Sanitation's
4 attorneys?

5 MS. URSEA: Right. They have their own attorneys
6 who also -- was also following the Court's injunctions and
7 the papers that were being filed and we were having
8 discussions.

9 In fact, when the preliminary injunction was filed
10 was the first time where the Sanitation -- at that point had
11 instructed not to discard bulky items.

12 But then later after the injunction issued, there
13 were further instructions given which was instructions about
14 storing items and if items could not be stored. There was
15 sort of additional instructions issued.

16 THE COURT: So did you follow up with the
17 Sanitation attorneys to make sure they had implemented what
18 I had ordered?

19 MS. URSEA: We are in contact with the Sanitation
20 attorneys about this and the operations, yes.

21 THE COURT: Well, let me --

22 MS. URSEA: And I have it that -- I'm sorry. I
23 didn't mean to interrupt. I just wanted to say that --

24 THE COURT: Let me just make clear going forward
25 that sending an email is not good enough. It is your

1 responsibility as the attorney for the City -- and I'm not
2 saying you didn't do it. I just can't tell from what you
3 said -- to make sure from the words coming out of my mouth
4 and the paper being issued on the docket to the person
5 that's going to be trying to take somebody's bulky item, you
6 can't pass that off. You're in charge of checking every
7 step of the way to make sure that my order gets down to the
8 level that it needs to get down to, to be implemented.

9 MS. URSEA: I understand, Your Honor. I just want
10 to be clear that operationally bulky items have not been
11 seized or discarded so that order has been communicated and
12 has been complied with.

13 THE COURT: Yes. I saw that in your papers and
14 that's very fortunate.

15 All right. So who now is in charge of updating
16 these paper notices and why didn't that happen until August?

17 MS. URSEA: Well, one of them was updated and the
18 other one -- I, unfortunately, I don't have an answer for.
19 It was not being used.

20 There was -- the focus of Sanitation was on other
21 things at that time to address the issues arising from COVID
22 and helping the homeless population in that sense.

23 And so it was, I think, overlooked but -- but it
24 was not that the order was not known or followed in other
25 ways because 1,080 signs were put up, permanent signs were

1 put up that were compliant with the order.

2 So it was this -- there were these two paper
3 notices that were not updated properly.

4 THE COURT: So going forward, how is the right
5 word or how has the right word been gotten to the right
6 people so that this does not happen again?

7 MS. URSEA: So Howard Wong is the Assistant Chief,
8 Environmental Compliance officer, and he has first -- they
9 have stopped using the bulky-item notice entirely.

10 They have also updated the comprehensive cleanup
11 notices and that is Exhibit B to his declaration so that it
12 removes any references to bulky items.

13 In fact, no signs will have any reference to bulky
14 items not just to the enforcement of the bulky-item
15 provision because bulky items is a term of art that's used
16 in Sanitation separate and apart from the ordinance but now
17 the instruction is not to have bulky items on any notice or
18 sign just to avoid any confusion as to what's the bulky-item
19 provision being enforced which it hasn't been.

20 And Sanitation has been instructed to use only the
21 revised comprehensive cleanup notice and to not use the
22 bulky-item notices under any circumstances; and, also, we
23 are continuing to inspect the permanent signs in the City
24 and putting overlays on any signs that are missing, an
25 overlay a reference to bulky items.

1 THE COURT: All right. So these Liveability
2 Services Division stopped using the paper notices? And when
3 did that happen? Do you recall the date?

4 MS. URSEA: I don't have -- I don't know if a date
5 is documented. I can supplement this if the Court wishes
6 for a specific date, but it was before we filed our
7 oppositions.

8 THE COURT: Well, I'm more concerned about the
9 future at this point; and, you know, when you refer to
10 Sanitation or someone is referring to Liveability Services,
11 employees, et cetera, how is this word getting to the people
12 that are out in the streets there so they know not to use
13 this notice?

14 I take it you have many, many people out there.

15 MS. URSEA: Yes. There are multiple teams.

16 I don't -- I'm not sure that it's a -- the current
17 declaration speaks to that issue; and I can supplement the
18 evidence if the Court would like a more specific explanation
19 of whether they're communicated by email or phone calls or a
20 person. But certainly it has been communicated because
21 there hasn't been enforcement of the provisions and the
22 permanent signs also reflect that.

23 THE COURT: Well, I'm not really satisfied with
24 the "it has been communicated and I don't know how it's been
25 communicated and it could be by email."

1 You know, I send emails all day long and I send
2 them to people who you would think would read them and
3 sometimes they don't.

4 So it's not giving me a comfort level that
5 everybody out there who needs to know actually knows what
6 they're supposed to be doing.

7 So I would say, Ms. Ursea, that this is your
8 responsibility so you need to get it done in a way that
9 satisfies you, that you're going to be able to satisfy me,
10 because I don't want to have to be dealing with this again.

11 So -- and apparently that's what happened. We had
12 an August 10 discussion that the notices wouldn't be used
13 and then it turned out they were used again on August 12
14 somehow; is that right?

15 MS. URSEA: Yes.

16 THE COURT: Well, how did that happen then if this
17 communication thing is going on?

18 MS. URSEA: Well, it was communicated but it
19 wasn't -- in particular, this is not in the record but we
20 can supplement this based on my understanding of this.

21 I can tell you what I understand of it which was
22 that it wasn't posted as a pre-removal notice which these
23 other instances were, as it was supposed to be notice of a
24 cleaning and remove this item.

25 It was supposed to be a post-removal notice that

1 was notifying somebody of where they can obtain items that
2 had been removed during a cleaning; and this notice has a
3 description of where to pick up items and that was the
4 notice that was used for that purpose.

5 So there was supposed to be a different notice
6 which is just a notice of this is where you pick up your
7 things and the person literally pulled the wrong piece of
8 paper for that purpose.

9 THE COURT: Okay.

10 All right. And Mr. Wong and Mr. Orozco have
11 indicated that further adjustments to the protocols are
12 being made. Is that done?

13 MS. URSEA: Yes.

14 THE COURT: And what are those adjustments?

15 MS. URSEA: The adjustments are: Do not use the
16 Exhibit A notice for bulky items. Use this Exhibit B
17 comprehensive -- revised comprehensive notice for
18 comprehensive cleanups and a reminder not to continue to not
19 destroy bulky items unless they're a health and safety
20 hazard and to store them or to move them.

21 THE COURT: So are we missing anything now? Is
22 there anything out there that still refers to bulky items
23 that hasn't been addressed in this motion?

24 MS. URSEA: There are -- I think the answer is no.
25 There are some questions as to whether the 4,400 signs that

1 preexisted before the injunction issued; that those had
2 references to bulky items.

3 We have tried to address that with overlays and
4 sometimes we're not sure what's happening to the overlays;
5 but out of the 4,400, I believe there was 100 at one point
6 that there was questions about why the overlays were not on
7 them.

8 We since then deployed Sanitation to put overlays
9 on them and they are under instruction to continue to look
10 at those signs which are in over one thousand locations
11 across the city to ensure that the overlays are on the bulky
12 items references.

13 THE COURT: All right.

14 So is it your understanding and belief that now
15 there are no signs out there that refer to bulky items?

16 MS. URSEA: That is my understanding, yes.

17 THE COURT: All right.

18 Well, if I were you, after this call, I would make
19 some more calls and make sure that your understanding is
20 correct because, as I said, I don't want to have another
21 motion like this to have to deal with. When I make an
22 order, I expect it to be fully complied with.

23 I'll hear from the plaintiffs just briefly if you
24 have something you want to comment about what Ms. Ursea has
25 said; and otherwise you were asking about some type of

1 remedial notice so I would like to know what you had in mind
2 and whether you have any concerns about future compliance
3 from the City that I need to address.

4 MS. MYERS: Sure, Your Honor. Thank you. This is
5 Shayla Myers on behalf of the plaintiff.

6 The only issue that I would rise; and, obviously,
7 we have some concerns about how the -- this provision was
8 implemented; and while we appreciate the City's statement
9 that no bulky items have been taken, there is no evidence on
10 the record of that particular point.

11 There are statements of last foundation --

12 THE COURT: I don't want to talk about that. I
13 want to talk about the questions that I asked you.

14 MS. MYERS: Sure, Your Honor.

15 The one concern that we have is Ms. Ursea noticed
16 that the Exhibit A was amended after the Court issued its
17 injunction.

18 I think both the City Attorney's office and we
19 believe that this notice is not consistent with the Court's
20 order and we're concerned that that -- that this notice was
21 amended and issued by LA Sanitation after the Court's
22 injunction was issued.

23 AND so our concern is that this notice is not
24 consistent with the Court's order, and we want to be clear
25 that this notice is not consistent with the Court's order

1 because somehow between LA Sanitation amending this notice
2 and then posting it, there was some approval process along
3 the way that allowed them to amend a posted notice
4 repeatedly over weeks.

5 So that does raise considerable concern to us
6 about what instruction LA Sanitation is giving related to
7 the bulky items because while there was a technical
8 amendment and they removed 5611(3)(i) from the notice, the
9 notice itself is simply not compliant with the injunction
10 and the City Attorney's office has agreed with us on that
11 point.

12 With regards to the remedial notice, what we would
13 ask is that the City post remedial notices in the poor
14 neighborhoods where they posted these notices erroneously,
15 where they stated to individuals, after the Court's
16 injunction was issued, that the City was prohibiting bulky
17 items and would be removing them.

18 Those remedial notices could be as simple and
19 straightforward as similar notices that state that the Court
20 is enjoined from enforcing the bulky-item provision.

21 But there are four distinct neighborhoods and the
22 individuals who are living in those neighborhoods that were
23 informed by notices posted on their belongings telling them
24 that the City could take those belongings at any time.

25 That obviously is inconsistent with this Court's

1 order and we think, as a remedy, it would be very
2 straightforward to simply post similar notices informing the
3 individuals in those neighborhoods that that is in fact not
4 the case.

5 THE COURT: All right.

6 You said you agreed that the notices were not in
7 compliance with my order. Has that been addressed now? I'm
8 not sure where we are with that.

9 Ms. Myers?

10 MS. MYERS: I'm sorry.

11 The notices that the City posted, the notice of
12 bulky-item notices that the City posted on August 4, 7, and
13 12, I think everyone agrees that those notices are not in
14 compliance with this Court's order.

15 Our concern is that those notices were drafted
16 after this Court issued your order; and so our concern is
17 that the City drafted -- and Ms. Ursea mentioned this -- the
18 City drafted those notices after the Court issued its order
19 and proceeded to post them after we pointed out that they
20 violated the Court order.

21 The City is now saying they won't post them going
22 forward. We just want to make sure that the parties are in
23 agreement that the notices violate the Court order and
24 they're not acting in compliance with what is stated on
25 these notices.

1 THE COURT: Well, the City has said -- frankly,
2 too many times in my view -- that nobody's these items were
3 taken. I want a representation that the notices that aren't
4 compliant will not be used anymore.

5 Ms. Ursea, how are you going to make sure that
6 doesn't happen because I'm going to hold you responsible?

7 MS. URSEA: I'm not sure how to answer that, Your
8 Honor. I mean, I will certainly use my best efforts to
9 communicate with the highest level at Sanitation and their
10 attorneys to ensure that this is -- the importance of this
11 is imposed upon them.

12 But I have done that in the past as well and I'm
13 not sure what more representation I can give to the Court.

14 I also --

15 THE COURT: Well, you're going to -- stop. You're
16 going to give them -- stop it. Stop.

17 You're going to give them notice in writing and
18 then you're going to provide that to me and you are going to
19 advise them that if further noncompliant notices are posted,
20 then they are going to be held responsible and I'm going to
21 find out why they shouldn't be held in contempt.

22 We can't have one set of lawyers saying: What do
23 you want from me? I told a different set of lawyers what
24 the judge wanted and then who knows what happened but
25 something we want wrong.

1 That's got to stop. I don't care that there are
2 two different agencies. Doesn't matter to me who has to
3 talk to who or what has to be done. You just have to follow
4 my order.

5 And if people who are responsible don't follow my
6 order, they're going to be in contempt. So as I said,
7 you're responsible. You figure it out. You document it.
8 You get it to me so that I know who I'm coming after if
9 people don't follow my order.

10 MS. URSEA: Understood.

11 THE COURT: Excellent.

12 Why don't the two of you talk -- or however many
13 are on the phone -- and come up with some remedial notice
14 that you will post for some period of time.

15 I think two weeks would be sufficient.

16 Wherever these ersatz notices were posted causing
17 problems for people; and if you can resolve it yourself,
18 fine, you don't have to come back to me.

19 If you can't, then let me know and I will make
20 some sort of order. But some remedial notice will be posted
21 for at least two weeks.

22 MS. URSEA: Understood.

23 THE COURT: Anything further?

24 MS. MYERS: No, Your Honor.

25 THE COURT: All right. Thank you very much.

1 MS. MYERS: Thank you.

2 (At 1:55 p.m., proceedings were concluded.)

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4 -oOo-

5
6 **CERTIFICATE**

7
8 I, PAT CUNEO, CSR 1600, hereby certify that
9 pursuant to Section 753, Title 28, United States Code, the
10 foregoing is a true and correct transcript of the
11 stenographically reported proceedings held in the
12 above-entitled matter and that the transcript page format is
13 in conformance with the regulations of the Judicial
14 Conference of the United States.

15 Date: October 16, 2020
16
17
18
19

20 /s/_____

21 PAT CUNEO, OFFICIAL REPORTER
22 CSR NO. 1600
23
24
25

<p>MR. DERMER: [1] 4/3 MR. LEBRON: [1] 4/1 MR. ONUGER: [2] 3/13 3/21 MS. MYERS: [6] 3/9 15/4 15/14 17/10 19/24 20/1 MS. SWEETSER: [2] 3/11 3/17 MS. URSEA: [23] THE CLERK: [1] 3/5 THE COURT: [32] - -and [1] 2/9 -oOo [2] 3/2 20/4 / /s [1] 20/20 0 0731 [1] 2/13 1 1,080 [2] 7/4 9/25 10 [1] 12/12 100 [1] 14/5 11543 [1] 2/12 12 [2] 12/13 17/13 16 [1] 20/15 1600 [3] 1/20 20/8 20/21 1782 [1] 1/23 19-6182 [1] 3/5 19-6182-DSF-PLA [1] 1/8 1:30 [3] 1/18 3/1 3/3 1:55 [1] 20/2 2 200 [1] 2/17 2020 [3] 1/18 3/1 20/15 213-473-6850 [1] 2/18 213-640-3983 [1] 2/4 213-680-8400 [1] 2/8 213-894-1782 [1] 1/23 213-978-7559 [1] 2/18 213-978-7569 [1] 2/18 23 [2] 1/18 3/1 28 [1] 20/9 29th [1] 2/7 3 310-396-0731 [1] 2/13 333 [1] 2/7 350 [1] 1/22 3983 [1] 2/4 4 4,400 [2] 13/25 14/5 4311 [1] 1/22 5 5611 [3] 6/14 6/14 16/8</p>	<p>6 6182 [1] 3/5 675 [1] 2/17 6850 [1] 2/18 7 7000 [1] 2/3 753 [1] 20/9 7559 [1] 2/18 7569 [1] 2/18 8 8400 [1] 2/8 9 90003 [1] 2/3 90012 [2] 1/23 2/17 90064 [1] 2/12 90071 [1] 2/8 A able [2] 4/16 12/9 about [12] 4/23 8/13 8/20 11/8 14/6 14/24 14/25 15/2 15/7 15/12 15/13 16/6 above [1] 20/12 above-entitled [1] 20/12 access [1] 5/4 across [1] 14/11 acting [1] 17/24 actually [2] 6/15 12/5 ad [1] 5/3 ADA [1] 5/17 additional [1] 8/15 address [3] 9/21 14/3 15/3 addressed [2] 13/23 17/7 adjust [1] 6/21 adjustments [3] 13/11 13/14 13/15 advise [1] 18/19 advised [2] 7/12 7/12 after [11] 6/10 7/4 8/12 14/18 15/16 15/21 16/15 17/16 17/18 17/19 19/8 afternoon [3] 3/24 4/1 4/3 again [3] 10/6 12/10 12/13 agencies [1] 19/2 agreed [2] 16/10 17/6 agreement [1] 17/23 agrees [1] 17/13 AID [1] 2/2 al [4] 1/6 1/9 3/6 3/6 ALEXANDER [1] 2/6 all [16] 3/3 3/14 3/23 4/5 5/7 5/24 7/5 7/8 9/15 11/1 12/1 13/10 14/13 14/17 17/5 19/25 allowed [1] 16/3 along [1] 16/2</p>	<p>#3837 also [1] 4/4 8/6 8/6 10/10 10/22 11/22 18/14 amend [1] 16/3 amended [5] 6/10 6/10 6/13 15/16 15/21 amending [1] 16/1 amendment [1] 16/8 among [1] 6/4 ANGELES [11] 1/9 1/17 1/23 2/2 2/3 2/8 2/12 2/14 2/17 3/1 3/6 another [2] 5/19 14/20 answer [4] 7/20 9/18 13/24 18/7 any [9] 4/12 10/12 10/13 10/17 10/18 10/22 10/24 15/2 16/24 anymore [1] 18/4 anyone [1] 4/11 anything [4] 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